IN THE HIGH COURT OF BOMBAY AT GOA

APPLN. FOR APPOINTMENT OF ARBITRATOR NO. 1 OF 2006

M/S GROUP CONSTRUCTION COMPANY ....Applicant

Versus

SHRI JOAO JOSE FERNANDES D'COSTA AND ANR., ...Respondents

Mr. Rohit Bras De Sa, Advocate for the Applicant.

Mr. C. A. Ferreira, Advocate For Respondent No. 1

Coram:- DR. S. RADHAKRISHNAN, J.

Date:- 4th October, 2006

P.C.:

Heard learned Counsel for the Applicant.

In the above application, the Applicant is seeking to invoke the provisions of the Arbitration Act, 1996 for appointment of an Arbitrator. As per Agreement dated 29th October, 1985 there was a clause for arbitration. However, by a further agreement dated 1st August, 1994 entered upon by the parties wherein there is a specific clause, which reads as under:-

" AND WHEREAS in view of these changed circumstances, it is agreed that a fresh Agreement be entered into in between the Parties in supercession of the earlier Agreement dated 29-10-1985 ".

There is no dispute that in the present Agreement dated 1st August, 1994 there is no provision or agreement for arbitration. Under these circumstances,and in view of the fact as there is no arbitration agreement at all, the present application for appointment of Arbitrator stands dismissed.

DR. S. RADHAKRISHNAN, J.

sl.